

SAMPLE MEMORANDUM OF AGREEMENT

The _____ agrees to participate in the School Health
Services program, under the fiscal management of

(Subcontractor)

(Contractor) for the 2006-2007 school year.

Per this agreement, our agency will receive: **(list services that will be provided)**

Examples:

Salary support for personnel - **list positions, amount of funding**

of hours per week of registered nurse services to provide (list specific activities):

- establishment/maintenance of health records;
- identification of special health care needs;
- development of emergency action and individual health plans;
- system of care for illness and injury;
- system for medication administration;
- screenings and referrals;
- health education; and
- supervision of paraprofessional.

of hours per week of social work services

REQUIRED ELEMENTS (The following statements are required in any proposed contract and must be included in any MOA)

- Subcontractor agrees to the HIPAA terms found in Attachment A.
- My agency will participate in all contract deliverables and the following Population-based measures

covered in this contract, and will provide the aggregate data required by the School Health Services Program.

- My agency will participate on the School Health Advisory Council by assigning
_____ to attend a minimum of four (4) meetings.

AUTHORIZED SIGNATURE (subcontractor)

DATE

AUTHORIZED SIGNATURE (contractor)

DATE

- 1.1 Health Insurance Portability and Accountability Act of 1996 (HIPAA) - The State Agency (Missouri Department of Health and Senior Services) is subject to and must comply with provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all regulations promulgated pursuant to authority granted therein. The contractor constitutes a "Business Associate" of the State Agency and the subcontractor constitutes a "Business Associate" of the contractor as such term is defined in the Code of Federal Regulations (CFR) at 45 CFR 160.103. Therefore, the terms, "contractor and subcontractor" as used in this section shall mean "Business Associate."
- 1.1.1 The contractor and subcontractor shall agree and understand that for purposes of the Business Associate Provisions contained herein, terms used but not otherwise defined shall have the same meaning as those terms defined in 45 CFR parts 160 and 164, including, but not limited to the following:
- 1.1.1.1 "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
- 1.1.1.2 "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR part 164, subpart C.
- 1.1.1.3 "Individual" shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502 (g).
- 1.1.1.4 "Protected Health Information" shall mean individually identifiable health information:
- (1) Except as provided in paragraph (2) of this definition, that is:
 - (i) Transmitted by electronic media; or (ii) Maintained in electronic media; or (iii) Transmitted or maintained in any other form or medium.
 - (2) Protected Health Information excludes individually identifiable health information in (i) Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g; (ii) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and (iii) Employment records held by a covered entity [State Agency] in its role as employer.
- 1.1.1.5 "Electronic Protected Health Information" shall mean information that comes within paragraphs (1)(i) or (1)(ii) of the definition of protected health information as specified above.
- 1.1.2 The contractor and subcontractor shall agree and understand that wherever in this document the term Protected Health Information is used, it shall also be deemed to include Electronic Protected Health Information.
- 1.1.3 The contractor and subcontractor shall agree the State Agency must comply with 45 CFR 160 and 45 CFR 164, as currently in effect and as may be amended at some later date, and that to achieve such compliance, the contractor and subcontractor must appropriately safeguard Protected Health Information (as that term is defined in 45 CFR 164.501), which the contractor and subcontractor receive from or create or receive on behalf of

the State Agency. To provide reasonable assurance of appropriate safeguards, the contractor and subcontractor shall comply with the business associate provisions stated herein.

- 1.1.4 The contractor and subcontractor agree to amend the contract as is necessary for the State Agency to comply with the requirements of the Privacy Rule and HIPAA requirements.

1.2 Permitted uses and disclosures of Protected Health Information:

- 1.2.1 The contractor and subcontractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the State Agency as specified in the contract, provided that such use or disclosure would not violate the Privacy Rule as the Privacy Rule applies to the State Agency.
- 1.2.2 The contractor and subcontractor may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1) and shall notify the State Agency by no later than ten (10) calendar days after the contractor or subcontractor become aware of the disclosure of the Protected Health Information.
- 1.2.3 If required to properly perform the contract and subject to the terms of the contract, the contractor and subcontractor may use or disclose Protected Health Information if necessary for the proper management and administration of the contractor's or subcontractor's business.
- 1.2.4 If the disclosure is required by law, the contractor and subcontractor may disclose Protected Health Information to carry out the legal responsibilities of the contractor or subcontractor.
- 1.2.5 The contractor and subcontractor may use Protected Health Information to provide Data Aggregation services to the State Agency as permitted by 45 CFR 164.504(e)(2)(i)(B).

1.3 Obligations of the Contractor and Subcontractor:

- 1.3.1 The contractor or the subcontractor shall not use or disclose Protected Health Information other than as permitted or required by the contract or as otherwise required by law.
- 1.3.2 The contractor and subcontractor shall use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by the contract. Such safeguards may include, but shall not be limited to:
 - 1.3.2.1 Workforce training on the appropriate uses and disclosures of Protected Health Information pursuant to the terms of the contract.

- 1.3.2.2 Policies and procedures implemented by the contractor or subcontractor to prevent inappropriate uses and disclosures of Protected Health Information by its workforce.
- 1.3.2.3 Any other safeguards necessary to prevent the inappropriate use or disclosure of Protected Health Information.
- 1.3.3 With respect to Electronic Protected Health Information, the contractor and subcontractor shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Electronic Protected Health Information that contractor or subcontractor creates, receives, maintains or transmits on behalf of the State Agency.
- 1.3.4 The contractor and subcontractor shall require that any agent or subcontractor to whom the contractor or subcontractor provides any Protected Health Information received from, created by, or received by the contractor or subcontractor pursuant to the contract, also agrees to the same restrictions and conditions stated herein that apply to the contractor and subcontractor with respect to such information.
- 1.3.5 By no later than ten (10) calendar days of receipt of a written request from the State Agency, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the State Agency, the contractor or subcontractor shall make the contractor's or subcontractor's internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, created by, or received by the contractor or subcontractor on behalf of the State Agency available to the State Agency and/or to the Secretary of the Department of Health and Human Services or designee for purposes of determining compliance with the Privacy Rule.
- 1.3.6 The contractor and subcontractor shall document any disclosures and information related to such disclosures of Protected Health Information as would be required for the State Agency to respond to a request by an individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528. By no later than five (5) calendar days of receipt of a written request from the State Agency, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the State Agency, the contractor or subcontractor shall provide an accounting of disclosures of Protected Health Information regarding an individual to the State Agency.
- 1.3.7 In order to meet the requirements under 45 CFR 164.524, the contractor or subcontractor shall, within five (5) calendar days following a State Agency request, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the State Agency, provide the State Agency access to the Protected Health Information in an individual's Designated Record Set. However, if requested by the State Agency, the contractor or subcontractor shall provide access to the

Protected Health Information in a Designated Record Set directly to the individual for whom such information relates.

- 1.3.8 At the direction of the State Agency, the contractor and subcontractor shall promptly make any amendment(s) to Protected Health Information in a Designated Record Set pursuant to 45 CFR 164.526.
- 1.3.9 The contractor and subcontractor shall report to the State Agency's Security Officer any security incidents no later than five (5) calendar days of becoming aware of such incident. For purposes of this paragraph, security incident shall mean the unauthorized access, use, modification or destruction of information or interference with systems operations in an information system.
- 1.3.10 By no later than five (5) calendar days after the contractor or subcontractor becomes aware of any use or disclosure of the Protected Health Information not permitted or required as stated herein, the contractor and subcontractor shall notify the State Agency's Privacy Officer, in writing, of the unauthorized use or disclosure and shall take immediate action to stop the unauthorized use or disclosure. The contractor and subcontractor shall include a description of any remedial action taken to mitigate any harmful effect of such disclosure. The contractor and subcontractor shall also provide the State Agency's Privacy Officer with a proposed written plan of action for approval that describes plans for preventing any such future unauthorized uses or disclosures.

1.4 Obligations of the State Agency:

- 1.4.1 The State Agency shall notify the contractor of limitation(s) that may affect the contractor's use or disclosure of Protected Health Information, by providing the contractor with the State Agency's notice of privacy practices in accordance with 45 CFR 164.520.
- 1.4.2 The State Agency shall notify the contractor of any changes in, or revocation of, authorization by an Individual to use or disclose Protected Health Information.
- 1.4.3 The State Agency shall notify the contractor of any restriction to the use or disclosure of Protected Health Information that the State Agency has agreed to in accordance with 45 CFR 164.522.
- 1.4.4 The State Agency shall not request the contractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule as the Privacy Rule applies to the State Agency.

1.5 Obligations of the Contractor :

- 1.5.1 The contractor shall notify the subcontractor of limitation(s) that may affect the subcontractor's use or disclosure of Protected Health Information, by

providing the subcontractor with the State Agency's notice of privacy practices in accordance with 45 CFR 164.520.

- 1.5.2 The contractor shall notify the subcontractor of any changes in, or revocation of, authorization by an Individual to use or disclose Protected Health Information.
 - 1.5.3 The contractor shall notify the subcontractor of any restriction to the use or disclosure of Protected Health Information that the State Agency has agreed to in accordance with 45 CFR 164.522.
 - 1.5.4 The contractor shall not request the subcontractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule as the Privacy Rule applies to the State Agency.
- 1.6 Expiration/Termination/Cancellation – Upon the expiration, termination, or cancellation of the contract for any reason, the subcontractor shall return to the contractor all Protected Health Information received by the subcontractor from the contractor, or created or received by the subcontractor on behalf of the contractor, and shall not retain any copies of such Protected Health Information. This provision shall also apply to Protected Health Information that is in the possession of subcontractor's agents.
- 1.7 Breach of Contract – In the event of material breach of the contractual obligation of the contract by the subcontractor, the contractor may cancel the contract.